

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10454 of 2018

In
Criminal Writ Jurisdiction Case No.708 of 2018

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Sunil Kumar Singh Son of Jai Prakash Singh, Resident of Village- Ram
Mandir Colony, P.O. and P.S.- Obra, District- Sonbhadra U.P.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Rohtas at Sasaram.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Divisional Forest Officer-cum-Authorized Officer, Rohtas, Forest
Division, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwary
For the Respondent/s : Mr. Alok Kumar Rahi, AC to Gp21

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 01-04-2019

Heard the learned counsel for the petitioner and the
State.

Petitioner has assailed the order dated 25.06.2014, as
contained in Annexure-8, passed by the Authorized Officer-cum-
Conservator of Forests, Wildlife Circle in Confiscation Case No.
18 of 2014, by which the three vehicles of the petitioners were
confiscated on the ground that they were found loaded with stone
chips without valid challan. Aforesaid order dated 25.06.2014
passed in Confiscation Case No. 18 of 2014 was challenged in
appeal by filing Confiscation Appeal No. 37 of 2014, which was



rejected by the Collector, Rohtas at Sasaram by order dated 29.09.2015 as contained in Annexure-9. Thereafter petitioner preferred revision against the order of the Collector, Rohtas at Sasaram vide Forest Revision Case No. 01 of 2016 and the same was also rejected by order dated 03.10.2017.

Learned counsel for the petitioner has submitted that he was holding valid *challan* for the aforesaid stone chips, which was loaded on three trucks. He is registered owner of the aforesaid three trucks. He had produced all the valid papers before the Confiscating Authority at the time of hearing of the case but none of the authority had taken into consideration the aforesaid documents while passing the order as contained in Annexure-9.

It is further submitted that the *challan* produced by the petitioner was properly verified. The Mining Officer, Sonebhadra, U.P. by verification letter/report no. 1279-1213-14 dated 28.03.2014, as contained in Annexure-6, has found all the three *challans* to be valid.

Learned counsel for the petitioner has further submitted that a Co-ordinate Bench of this Court after relying on the aforesaid *challan* and other documents filed by the petitioner has quashed the entire proceeding including the criminal proceeding including order of cognizance in connection with Kochas P.S. Case



No. 149/2013, registered by the Forest Authority for the aforesaid occurrence, by order dated 07.05.2018 passed in Cr. Misc. No. 35836/2015.

Learned counsel for the petitioner has submitted that stone chips were loaded on vehicles bearing registration nos. UP 65H 6342 and UP 64 2621 from the business premises of M/s Mishra Stone Crushing Company, Sonebhadra in the State of U.P. through valid *challan* which was also shown to the Officer-in-Charge of the concerned police station as well as the Confiscating Authority but to no avail.

It is further submitted that stone chips were loaded on the truck bearing registration no. UP 64 2421 from the business premises of Ramfal Chaudhary through valid *challan* and the same was also produced before the Officer-in-Charge but the vehicles were confiscated.

Learned counsel for the State has filed Counter Affidavit stating therein that confiscation proceeding and criminal proceeding are two different proceedings. The confiscation order was passed because the authority did not find the *challan* to be genuine. The quantity of stone chips transported was also not mentioned in the *challan*.



Learned counsel for the petitioner has enclosed the order dated 07.05.2018 passed in Cr. Misc. No. 35836/2015, by which criminal proceeding against this petitioner was quashed. Copy of aforesaid order is enclosed as Annexure-10 to the Supplementary Affidavit.

Learned counsel for the petitioner has also pointed out Annexure-6, which is report of Mining Department, Sonebhadra, stating therein that all the three trucks were loaded with stone chips with valid *challan*.

This Court, after perusing the impugned orders as contained in Annexures- 8, 9 and 10, finds that all the concerned authorities have not taken into consideration the documents filed on behalf of petitioner during hearing of the matter and have passed impugned orders directing the confiscation of the three trucks of the petitioner loaded with stone chips.

Therefore, the impugned orders dated 25.06.2014, 29.09.2015 and 03.10.2017 as contained in Annexure- 8, 9 and 10 are hereby set aside.

The Divisional Forest Officer, Rohtas at Sasaram is directed to release all the vehicles of the petitioner after verification of all the papers within a period of fifteen days from the date of receipt/production of this order.



This writ petition is accordingly allowed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	11.04.2019
Transmission Date	

